

Notice of Allowability**Application No.**

09/980,748

Applicant(s)

BEN-HAIM ET AL.

Examiner

REX HOLMES

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the interview of 3/24/11.
2. ☒ The allowed claim(s) is/are 5,6,8,12,14,34,35,39,44,49,50,52,53.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 1/18/11
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20110330
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/R. H./
Examiner, Art Unit 3762

/Niketa I. Patel/
Supervisory Patent Examiner, Art Unit 3762

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Benjamin Fishman on 3/24/11.

The application has been amended as follows:

In Claim 5, line 10, "." was deleted and -- pacing the heart at approximately 1 Hz while applying the electrical pulses at the rate greater than about 10Hz. -- was inserted.

In Claim 6, line 10, "." was deleted and -- pacing the heart at approximately 1 Hz while applying the electrical pulses at the rate greater than about 10Hz. -- was inserted.

In Claim 12, line 13, "." was deleted and -- pacing the heart at approximately 1 Hz while applying the electrical pulses at the rate greater than about 10Hz. -- was inserted.

In Claim 14, line 12, "." was deleted and -- pacing the heart at approximately 1 Hz while applying the electrical pulses at the rate greater than about 10Hz. -- was inserted.

In Claim 34, line 10, "." was deleted and -- pacing the heart at approximately 1 Hz while applying the electrical signal. -- was inserted.

In Claim 39, line 12, "." was deleted and -- pacing the heart at approximately 1 Hz while applying the electrical signal. -- was inserted.

In Claim 44, line 10, "." was deleted and -- pacing the heart at approximately 1 Hz while applying the electrical signal. -- was inserted.

In Claim 49, line 14, "." was deleted and -- a pacing electrode, adapted to be coupled to the heart, wherein the control unit is adapted to drive the pacing electrode to pace the heart at approximately 1 Hz, while concurrently driving the one or more electrodes to apply the electrical pulses. -- was inserted.

In Claim 50, line 14, "." was deleted and -- a pacing electrode, adapted to be coupled to the heart, wherein the control unit is adapted to drive the pacing electrode to pace the heart at approximately 1 Hz, while concurrently driving the one or more electrodes to apply the electrical pulses. -- was inserted.

In Claim 53, line 14, "." was deleted and -- a pacing electrode, adapted to be coupled to the heart, wherein the control unit is adapted to drive the pacing electrode to pace the heart at approximately 1 Hz, while concurrently driving the one or more electrodes to apply the electrical pulses. -- was inserted.

2. The following is a statement of reasons for the indication of allowable subject matter: The subject matter for the independent claims could not be found or was not suggested in the prior art. Based on Applicant's remarks and upon reconsideration, the

Examiner finds Applicant's arguments convincing in light of amendments to the claims. The prior art of record fails to teach or reasonably suggest applying pulses to the heart to defibrillate the heart without effectuating defibrillation of the heart while pacing the heart at approximately 1 Hz while applying the electrical pulses at the rate greater than about 10Hz, within the context of the other claimed elements, the concept of in combination with the other limitations of the claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REX HOLMES whose telephone number is (571)272-8827. The examiner can normally be reached on M-F 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Niketa Patel can be reached on (571) 272-4156. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. H./
Examiner, Art Unit 3762

/Niketa I. Patel/
Supervisory Patent Examiner, Art Unit 3762